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PATENTREMARKS

Claims 21-24 are added by this amendment. Claims 1-24 will be pending upon entry of the amendment.

I. Claim Rejections under 35 U.S.C. 102A. Claims 1-9

The present invention is directed to a page indicator for identifying a page of a publication (e.g., book, magazine, etc.) The page indicator has a moveable flap connected to a panel of the indicator. The flap is moveable between a first position wherein the flap is substantially coplanar with the panel and a page receiving position wherein the flap is pivoted away from the panel to provide an opening for receiving a corner of the page.

More specifically, claim 1 recites a page indicator for identifying a page having generally perpendicular first and second free edge margins forming a corner of the page, the page indicator comprising:

a panel having a front surface and a back surface;
a flap connected to the panel and moveable between a first position wherein said flap is substantially coplanar with said panel and a page receiving position wherein said flap is pivoted away from said panel to provide an opening for receiving said corner of a page,

the panel having a first edge margin and a second edge margin that are substantially perpendicular, said first and second edge margins of the panel being shaped and arranged relative to the flap such that when the flap receives the page corner, the first panel edge margin projects from and is generally parallel to the first free edge margin of the page and the second panel edge margin projects from and is generally parallel to the second free edge margin of the page whereby the page indicator may be engaged adjacent either free edge margin of the page for opening to the page.

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Claim 1 is unanticipated by and patentable over the references of record, including U.S. Patent No. 1,921,213 issued to Bush et al., because Bush et al. do not show or suggest a page indicator having a flap connected to the panel and moveable between a first position wherein said flap is substantially coplanar with the panel and a page receiving position wherein the flap is pivoted away from the panel to provide an opening for receiving a corner of the page.

Bush et al. disclose an index card 1 having a slit 2 cut near a corner of the card. As shown in Figs 2 and 3, the card 1 is attached to the page 3 of a book such that information printed on the top and side edge margins of the card may be visible to a reader of the book. The page 3 overlays the card 1 except for the top and left side edge margins that extend beyond the edge margins of the page. A corner 3a of the page 3 is inserted in the slit 2 and is bent back (Fig. 3) to prevent the card from becoming disengaged from the page. Bush et al. do not show or suggest any structure that hangs loose or projects freely in the nature of a flap.

Considering the ordinary meaning of the words "slit" and "flap", it is clear that claim 1 requires a different structure than what is shown by Bush et al. The dictionary defines "flap" as "something that is broad, limber or flat and hangs loose or projects freely." Merriam-Webster's Collegiate Dictionary (11th ed., 2003) (def. 3) (emphasis added). On the other hand "slit" is defined as "a narrow cut or opening." *Id.* Obviously, these words are not synonyms for the same structure. Copies of the relevant pages of the dictionary are enclosed herewith as Appendix A.

Still further, an arbitrarily defined area adjacent to a slit, such as the area contacted by the corner of the page 3a, is also not a flap. In order to be a flap, as that word is ordinarily understood, the arbitrary area must "hang loose" or "project freely". It does neither. The arbitrary area coinciding with the page corner 3a in fact is a part of the index

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card that extends continuously with the remainder of the index card except at the slit. However, the discontinuity of the slit does not allow it to hang loose or project freely from the remainder of the card. At all times the arbitrary area adjacent the slit remains continuous with the other parts of the index card except at the slit. However, the slit is a one dimensional structure. In order to hang loose or project from something, more than one dimensional structure is needed. To receive the corner of the page 3, Bush et al.'s index card deforms so that parts of the index card on opposite sides of the slit move out of plane. This motion cannot properly be described as pivoting (as required by claim 1).

In contrast, applicant's claimed flap (as illustrated in Fig. 3 of the present application) clearly does project from the remainder of the panel. The flap 55 clearly projects up and out of the plane of the panel, separating from adjacent parts of the panel in three dimensions.

A claim is anticipated only if each and every element as set forth in the claim is found in a single prior art reference. See MPEP 2131 quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F. 2d 628, 631 (Fed. Cir. 1987). Clearly, Bush et al. does anticipate claim 1 as the reference does not show or suggest any structure that may be construed as a "flap" as recited in claim 1. Bush et al. only shows an elongate slit 2 in an index card which cannot be construed as forming a moveable flap capable of pivoting to a position out of plane with the index card 1.

Accordingly, claim 1 is submitted to be patentable over Bush et al. and the other references of record. Claims 2-9, depending directly or indirectly from claim 1, are patentable over Bush et al. and the other references of record for the same reasons as claim 1.

B. Claims 10-20

Independent claim 10 recites a page indicator for identifying a page having generally perpendicular first and

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second free edge margins forming a corner of the page, the page indicator comprising:

a panel having a front surface and a back surface and a first edge margin and a second edge margin;

a flap connected to the panel and moveable between a first position wherein said flap is substantially coplanar with said panel and a page receiving position wherein said flap is pivoted away from said panel to provide an opening for receiving said corner of the page, the flap having a hinge axis for movement of the flap away from the panel and a centerline passing through the hinge axis,

the flap being arranged relative to the first and second edge margins of the panel such that said centerline of the flap is non-perpendicular to the first and second edge margins of the panel.

Claim 10 is unanticipated by and patentable over the references of record, including Bush et al., because Bush et al. does not show or suggest a page indicator having a flap connected to a panel and moveable between a first position wherein said flap is substantially coplanar with the panel and a page receiving position wherein said flap is pivoted away from the panel to provide an opening for receiving the corner of the page, the flap having a hinge axis for movement fo the flap away from the panel.

Claim 10 is patentable over Bush et al. for substantially the same reasons as set forth above for claim 1 in that Bush et al. do not show or suggest a flap connected to a panel and moveable between a first position wherein the flap is substantially coplanar with the panel and a page receiving position where the flap is pivoted away from the panel to provide an opening for receiving the corner of the page. Additionally, Bush et al. does not show or suggest a flap having a hinge axis for movement of the flap away from the panel.

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As stated above for claim 1, the index card 1 having slit 2 disclosed by Bush et al. does not have any portion of the card that is capable of pivoting to a position out of plane with the remaining portion of the card. Further, Bush et al. does not teach that the card 1 has a hinge axis for movement of any portion of the card away from the plane of the index card 1. As stated above for claim 1, applicant is unclear how a substantially planar index card 1 having a slit 2 could be construed as having a pivotable flap as set forth in claim 19.

Accordingly, claim 10 is submitted as patentable over Bush et al. and the other references of record. Claims 11-20, depending directly or indirectly from claim 10, are patentable over Bush et al. and the other references of record for the same reasons as claim 10.

II. New Claims

New claims 21 and 23 depend from claims 1 and 10, respectively, and recite that the flap is generally rectangular and is out of planar registration with the panel at the page receiving position. Bush et al. and the other references of record fail to show or suggest this feature.

New claim 22 depends from claim 1 and recites that the flap has a hinge axis for movement of the flap away from the panel and the flap has a free edge margin spaced away from the hinge axis. Similarly, new claim 24 depends from claim 10 and recites that the flap has a free edge margin spaced away from the hinge axis. Bush et al. and the other references of record fail to show or suggest these features.

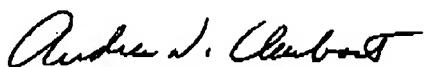
III. Conclusion

In view of the foregoing, reconsideration and allowance of claims 1-20 is respectfully requested. In addition favorable consideration and allowance of new claims 21-24 is also requested.

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The Commissioner is hereby authorized to charge Deposit Account No. 19-1342 in the amount of \$36 to cover the additional claims fee. The Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment to Deposit Account No. 19-1345 in the name of Senniger Powers.

Respectfully submitted,



Andrew N. Claerbout, Reg. No. 50,202
SENNIGER, POWERS, LEAVITT & ROEDEL
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102
(314) 231-5400

ANC/KFJ/jmd

VIA FACSIMILE -703-872-9306